IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1091 of 2001(B)

OPMV.1023/1993 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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APPELLANT/PETITIONER

MARIYAM K.V., D/O. LATE SOOPY KUTTY,
KURUVAMBATH HOUSE, KUMMANCODE P.O.,
NADAPURAM, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/RESPONDENT
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1. **K. VIJAYENDRA KUMAR,**
   S/O. KUMARAN, KRISHNANAD,
   CHERATTUKUZHI, MALAPPURAM DIST.

2. **VENUGOPALAN, S/O. VELAYUDHAN NAIR,**
   KOTTAKULANGARA HOUSE, EDATHIL PADIVAYAL,
   BEYPORE AMSOM.

3. **UNITED INDIA INSURANCE CO. LTD.,**
   BRANCH OFFICE, V., DB ROAD,
   R.S. PURAM, COIMBATORE.

BY ADVS. SRI.M.P.MOHAMMED ASLAM --- R2
SRI.P.MURALEEDHARAN,SC INSURANCE (R3)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1091 of 2001

Dated this the 7th day of December, 2007

Judgment

Koshy,J.

Appellant/Claimant, at th age of 65, sustained injuries in a motor accident. Appellant was travelling in a tourist car. The car was hit by a bus. The tribunal found that the driver of the bus was responsible for the accident as he was rash and negligent and third respondent was directed to deposit the amount awarded. The tribunal awarded only an amount of Rs.21,700/-. Quantum of compensation alone is disputed in this appeal.

2. Exts. A11 and 12 would show that appellant had a segmental fracture right shaft of femur lower third and proteiture spinal injury. She was treated as an inpatient for two months. However, disability certificate was not produced. The tribunal has awarded only Rs.1,000/- towards treatment expenses and no compensation was awarded for disability or for loss of earning power. The claimant was aged 65 at the time of accident. We are of the view that an accident at this age and fracture required continued medication till her death. It is lacunae on the part of the

claimant to produce disability certificate. However, considering the fracture of femur and injury to spine at the old age, we are of the view that for future medical expenses, disability, loss of amenities and consequences of the disability, an amount of Rs.7,500/- should be awarded over and above the amount decreed by the tribunal.

In the result, the appeal is allowed partly. Third respondent insurance company is directed to deposit Rs.7,500/= more than that was awarded by the tribunal with 7.5% interest from the date of application till its deposit. On deposit of the amount, appellant is allowed to withdraw the same.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1091 of 2001

Judgment

Dated:7th December, 2007